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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

|                                |   |                     |
|--------------------------------|---|---------------------|
| IN THE MATTER OF               | ) | Appeal No. UIC 95-1 |
|                                | ) |                     |
| Lahaina Wastewater Reclamation | ) | MOTION FOR REMAND   |
| Facility                       | ) |                     |
|                                | ) |                     |
|                                | ) |                     |
|                                | ) |                     |

By Order dated August 2, 1995, the Environmental Appeals Board granted EPA Region 9 until September 29, 1995 to file a response to the Petition filed in this matter. As explained further below, EPA Region 9 now requests that the Board remand these proceedings to the Region for issuance of a new draft permit that will reflect an at least partial settlement between Region 9 and the Petitioner in this matter.

EPA Region 9 and the petitioner County of Maui Department of Public Works and Waste Management have reached at least a partial agreement in this matter. Region 9 has agreed to make all the changes in the UIC permit requested by the Petitioner, with one

1 relatively minor exception that Region 9 believes can be  
2 resolved. In addition, Region 9 and the Petitioner have agreed  
3 in concept to an additional permit provision concerning nitrogen  
4 levels in the injectate that does not appear in the current  
5 permit. Region 9 is also considering additional permit  
6 restrictions that are different from those in the current Permit  
7 concerning total injectate flow. The Petitioner does not agree  
8 that additional flow restrictions are warranted.

9 While the parties have not reached complete agreement on all  
10 the conditions of the permit, they have reached sufficient  
11 agreement to render additional proceedings before the Board on  
12 the current Petition unnecessary. As noted, the parties are  
13 essentially in agreement over all the permit conditions contested  
14 in the current Petition and may reach agreement on alternative  
15 conditions during remanded proceedings. The Board may remand UIC  
16 permit proceedings to the Region whenever additional proceedings  
17 before the Region may resolve all matters raised by a Petition  
18 for Review, as is the case here. See 40 C.F.R. § 124.19(e)(ii),  
19 (iii). Accordingly, this matter should be remanded to the Region  
20 to issue a new draft permit. Region 9 will then process this new  
21 draft permit in accord with 40 C.F.R. part 124, which will  
22 provide Petitioner and any other member of the public full  
23 opportunity to contest any alternative permit conditions included  
24 in the new draft permit.

25 Upon remand, Region 9 expects to issue a new draft permit by  
26 November 15, 1995 (budget considerations, such as spending  
27 authorization to provide the required public notice, permitting).  
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1 | Region 9 has no objection to the remand order specifying such a  
2 | time schedule.

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4 |                   Respectfully Submitted,

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6 | Dated: September 29, 1995

7 |                   Christopher A. Sproul  
8 |                   Assistant Regional Counsel